

## **5-12.000 ENVIRONMENTAL ENFORCEMENT SECTION**

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## **5-12.001 Establishment**

The Environmental Enforcement Section was created on September 10, 1980, by Environment and Natural Resources Division Directive No. 17-80.

## **5-12.002 Purpose and Functions**

The Environmental Enforcement Section was organized in order to provide a specialized legal staff capable of carrying out the effective civil judicial enforcement of laws relating to protection of the environment.

## **5-12.100 Area of Responsibility -- Statutes Administered**

The Environmental Enforcement Section is responsible for conducting civil enforcement litigation arising under the following statutes:

- A. Federal Water Pollution Control Act or Clean Water Act, 33 U.S.C. § 1251 *et seq.* (except for in rem actions against vessels, which are supervised by the Torts Branch (Admiralty and Shipping) of the Civil Division and except for wetlands cases under 33 U.S.C. §§ 1311(a), 1344 that are supervised by the Environmental Defense Section);
- B. Clean Air Act, 42 U.S.C. § 7401 *et seq.*;
- C. Resource Conservation and Recovery Act, 42 U.S.C. § 6901 *et seq.* (also known as the Solid Waste Disposal Act);
- D. Comprehensive Environmental Response, Compensation, and Liability Act (Superfund), 42 U.S.C. § 9601 *et seq.*;
- E. Safe Drinking Water Act, 42 U.S.C. § 300f *et seq.*;
- F. Toxic Substances Control Act, 15 U.S.C. § 2601 *et seq.*;
- G. Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. § 135(d) *et seq.*;
- H. River and Harbor Act, 33 U.S.C. § 4401 *et seq.*, except for in rem actions against vessels and wetlands cases. *See* Federal Water Pollution Control Act;
- I. Marine Protection Research and Sanctuaries Act, 33 U.S.C. § 1401 *et seq.*;
- J. Noise Control Act, 42 U.S.C. § 4901 *et seq.*;
- K. The Atomic Energy Act of 1954, 42 U.S.C. § 2011 *et seq.*, insofar as it relates to the civil prosecution of violations committed by a company in matters involving the licensing and operation of nuclear power plants and affecting the environment;
- L. Powerplant and Industrial Fuel Use Act of 1978 (Pub.L. No. 95-620), National Energy Conservation Policy Act (Pub.L. 95-619), and Titles I and V of the Public Utility Regulatory Policies Act of 1978 (Pub.L. No. 95-617);
- M. Uranium Mill Tailings Radiation Control Act, 42 U.S.C. § 7133 *et seq.*;
- N. Section 2 of the Energy Supply and Environmental Coordination Act of 1974, 15 U.S.C. § 791 *et seq.*;
- O. The Act of June 23, 1910 (33 U.S.C. § 421 *et seq.*);
- P. The Act of June 29, 1888 (33 U.S.C. § 441 *et seq.*);
- Q. Sections 3, 6, and 9 of the Act of August 30, 1961 (33 U.S.C. §§ 1002, 1005, 1008);
- R. Sections 15 and 18 of the Deepwater Port Act of 1971 (33 U.S.C. § 1501 *et seq.*), insofar as a violation of the Act or the rules and regulations promulgated pursuant thereto results in environmental pollution;

- S. Section 5(a)(2) of the Outer Continental Shelf Lands Act of August 7, 1953 (43 U.S.C. § 1334(a)(2)), where the violation of a rule or regulation results in environmental pollution.
- T. The Oil Pollution Control Act of 1990, 33 U.S.C. § 2701 *et seq.*

## **5-12.110 General Responsibilities**

The Environmental Enforcement Section prosecutes, supports, and coordinates the prosecution of all civil cases, matters, and proceedings arising under the statutes identified in USAM 5-12.100 or initiated under federal common law for environmental protection.

## **5-12.111 Cases Brought on Behalf of the United States**

A. The Environmental Enforcement Section has Departmental responsibility for civil matters initiated on behalf of the United States to secure the control and abatement for sources of pollution or to protect the natural environment, to the extent that such cases may arise under the statutes identified in USAM 5-12.100 or under the federal common law. As a matter of policy and practice, civil prosecutions are initiated at the request of the Administrator of the Environmental Protection Agency, the Commandant of the Coast Guard, the Chief of Engineers of the United States Army, and other government officials having statutory responsibility for the enforcement of laws designed to protect the public health, welfare, and the environment. Section 12 of the statute that authorized the Department's 1980 budget authorized the Attorney General with the concurrence of any agency or department with primary enforcement responsibility for an environmental or natural resource law to investigate any violation, and bring such actions as are necessary to enforce such laws. Except for cases initially subject to treatment as direct referrals, *see* USAM 5-1.310 the Assistant Attorney General of the Environment and Natural Resources Division must review and approve in advance the following actions in cases referred by or brought on behalf of the Environmental Protection Agency and other Federal client agencies under the statutes identified in USAM 5-1.320, *et seq.*:

1. File or amend a complaint or counterclaim;
2. File a claim or otherwise initiate process or file a counterclaim in a bankruptcy or probate matter;
3. Raise issues involving statutes administered by the EPA or other Federal agencies;
4. Compromise, close or dismiss a case; or
5. Modify or enforce a consent decree or judgment.

B. When apparent violations of the statutes identified in USAM 5-1.320 are brought to the attention of the Department of Justice by persons or agencies other than those with statutory enforcement responsibilities, the Department either forwards those reports to appropriate executive branch enforcement officials for evaluation and possible referral for legal proceedings or, in criminal cases, may itself undertake the necessary investigation and prosecution. The practice of forwarding reports of suspected violations to appropriate agencies has several potential benefits: (1) it allows the agencies to bring to bear their technical expertise to determine whether violations actually have occurred; (2) it allows the agencies to settle cases administratively in certain circumstances; and (3) it allows the agencies to apply technical and investigative resources in order to develop those cases which do have merit.

## **5-12.120 Overlapping Section Case Responsibility**

Although the Environmental Enforcement Section has the primary responsibility for actions involving the statutes identified in USAM 5-12.100 occasionally cases occur which involve those statutes along with statutes for which another section of the Department generally is responsible. In each such case, the chiefs of the

respective sections will designate the section which will assume the primary responsibility. The designated section will coordinate with any other concerned section, will furnish copies of all pertinent pleadings and memoranda to that section, and will notify the United States Attorney of the names and telephone numbers of attorneys in the other sections who may be contacted for information in their areas of expertise.

### **5-12.121 Responsibility for Cases With New Issues and/or Altered Character**

A. Occasionally issues involving laws for which the Environmental Enforcement Section is responsible may be injected into existing litigation by way of amendment or supplemental pleadings or *sua sponte* by the court. The United States Attorney should not add or raise such matters without first notifying and receiving approval from the Chief of the Environmental Enforcement Section. In cases where such issues have been raised by others, the United States Attorney should immediately notify the Chief of the Environmental Enforcement Section to assure that the section can properly perform its responsibilities.

B. On other occasions, the fundamental character of existing litigation may change and environmental enforcement issues may become dominant issues. In such situations, the Environmental Enforcement Section staff attorney responsible for the case shall notify the Section Chief, who may request a transfer of section responsibility if he/she deems it appropriate. If Environmental Enforcement issues become dominant in a case in which no Environmental Enforcement Section attorney is directly involved, the United States Attorney shall notify the Environmental Enforcement Section Chief of the situation and he/she may make a written request to the Assistant Attorney General of the Environment and Natural Resources Division to have the case transferred to the Environmental Enforcement Section.

### **5-12.200 Organization**

The section is administered by a Chief, two Deputy Chiefs, and six Assistant Chiefs. Within the section, work is assigned among staff attorneys by the Assistant Chiefs, under the supervision of the Chief and Deputy Chiefs, according to experience and workload. General information relating to the Section or cases within its supervision may be obtained by calling the Chief or Assistant Chiefs at FTS (202) 514-5271 or 514-4353. Information on a specific case should be requested from the staff attorney assigned to that case. When the staff attorney's name is unknown, the docket clerk of the section (FTS (202) 514-5245 or 514-5246) may furnish that information. (Note that a quicker response to inquiries may be forthcoming if the requestor can cite a departmental file number, e.g., 90-5-1-2-40 or 62-81-2, which generally appears in the upper left-hand corner of correspondence originating from the Department.)

### **5-12.300 Supervision and Handling of Environmental Enforcement Section Cases -- Requests for Instructions**

All requests for instructions and guidance relating to the prosecution of actions under the jurisdiction of the Environmental Enforcement Section shall be referred to the Chief of the Environmental Enforcement Section of the Environment and Natural Resources Division of the Department of Justice, P.O. Box 7611, Washington, D.C. 20044-7611, or to the section attorneys known to be handling such actions.

### **5-12.302 Transmittal of Papers to Environmental Enforcement Section and Client Agencies**

In any case arising under the statutes identified in USAM 5-12.100 one copy of each letter sent or received by a United States Attorney as well as one copy of each pleading and paper filed by any party or by the court, shall be forwarded promptly to the Environmental Enforcement Section and one copy shall be forwarded to the referring client agency.

### **5-12.311 Exigent Circumstances**

A. Whenever the United States Attorney becomes aware of a recently developed situation in his/her district not previously the subject of any report or referral, which merits a temporary restraining order or preliminary injunction, he/she should contact both the regional legal office of the client agency and the Chief of the Environmental Enforcement Section directly by telephone. An example might be the United States Attorney's learning of a company's intention to burn hazardous material in an uncontrolled incinerator thereby endangering the lives and health of those living near the incinerator. To prevent such action a temporary restraining order or a preliminary injunction may be in order.

B. Under circumstances which involve immediate threats to life or health, the Chief of the Environmental Enforcement Section may give authorization by telephone for the filing of a complaint and application for a temporary restraining order. If the Section Chief, Deputy Chief, the Assistant Chiefs, the Deputy Assistant Attorney, and the Assistant Attorney General, cannot be reached by telephone, the United States Attorney may seek a temporary restraining order to prevent threats to life or health without prior approval.

### **5-12.320 Direct Referral Civil Cases Not Requiring Prior Approval by the Assistant Attorney General**

A. The following groups of cases arising under the statutes identified in USAM 5-12.100 may be handled by the United States Attorneys as direct referrals, i.e., as not requiring specific authorization by the Assistant Attorney General of the Environment and Natural Resources Division:

1. Cases referred by the United States Coast Guard for the collection of federal clean up costs or civil penalties under 33 U.S.C. § 1321;
2. Miscellaneous proceedings, such as warrants, in assistance to agencies seeking investigative entry under the Clean Water Act, 33 U.S.C. § 1318; Clean Air Act, 42 U.S.C. §§ 7414, 7525; Resource Conservation and Recovery Act, 42 U.S.C. §§ 6927, 6934; Safe Drinking Water Act, 42 U.S.C. § 300(j) (4); Toxic Substances Control Act, 15 U.S.C. § 2610; and Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. § 136(g); but not the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), 42 U.S.C. § 9601 *et seq.*

All other enforcement cases arising under these statutes identified in USAM 5-1.320 require the approval of the Assistant Attorney General before they can be filed, with the exception of warrants under CERCLA which may be approved by the Environmental Enforcement Section Chief or his/her designee.

B. The Assistant Attorney General and his/her designee retain the authority to direct that any case within the responsibility of the Environment and Natural Resources Division shall be handled in whole or in part by Division attorneys.

### **5-12.321 Notification to Environmental Enforcement Section of Intention to File Actions**

Prior to filing a civil complaint in a case authorized for direct referral, the United States Attorney shall notify the Chief of the Environmental Enforcement Section of the proposed action and shall furnish the section with a copy of the written request from the respective client agency for the initiation of the action. Thereafter, the Environmental Enforcement Section shall be furnished with copies of all pleadings filed in any direct referral case.

### **5-12.340 Cooperation and Coordination with Environmental Protection Agency**

A. Pursuant to a Memorandum of Understanding with the Environmental Protection Agency, within 60 days of receipt from the Environmental Protection Agency of a formal request to file a suit, the Chief Environmental Enforcement Section is required to decide whether an enforcement action is to be filed.

B. If a determination is made by the Section Chief not to file a complaint, he/she shall report this determination promptly to the Assistant Attorney General and, upon the approval of the determination by the Assistant Attorney General, to the official of the Environmental Protection Agency requesting the initiation of the action.

C. If a determination is made by the Chief to file an action, the complaint, signed by the Assistant Attorney General, shall be filed within 20 days of the determination to file. In the event that any United States Attorney or Environmental Enforcement Section attorney does not file such a complaint, he/she shall submit a report to the Assistant Attorney General explaining why such complaint has not been filed, and shall continue to submit such reports at two-week intervals until the complaint is filed or a decision is reached not to file the complaint.

D. If the Department of Justice fails to file a complaint within 120 days of its receipt of a request for litigation and a civil litigation report by the agency to the Attorney General, then the Administrator may request the Attorney General, to file a complaint within 30 days. Failure of the Department thereafter to file a complaint within the said 30 days may be considered by the Administrator or his/her delegate to be a failure of the Attorney General to notify the Administrator within a reasonable time that he/she will appear in litigation for purposes of Section 305 of the Clean Air Act, 42 U.S.C. § 7605; Section 506 of the Federal Water Pollution Control Act, 33 U.S.C. § 1366; or Section 1450 of the Safe Drinking Water Act, 42 U.S.C. § 300(j)(9). If such a failure occurs, attorneys of the Environmental Protection Agency may represent the Administrator without the United States Attorney or Department attorneys. However, the failure of the Attorney General to file a complaint within the time period requested by the Administrator in a case in which the Administrator requested immediate action to protect public health under §§ 311(e) and 504 of the Federal Water Pollution Control Act, 33 U.S.C. §§ 1321(e) and 1364; Section 303 of the Clean Air Act, 42 U.S.C. § 7603; or Section 1450 of the Safe Drinking Water Act, 42 U.S.C. § 300(i), may also be considered by the Administrator to be a failure of the Attorney General to notify the Administrator under 42 U.S.C. § 7605; 33 U.S.C. § 7603; or 42 U.S.C. § 300(j)(9).

### **5-12.500 District Court Procedures Generally**

The general instructions set forth in USAM 5-1.100 *et seq.*, with respect to the handling of litigation under the jurisdiction of the Environment and Natural Resources Division apply to litigation within the responsibility of the Environmental Enforcement Section.

### **5-12.520 Investigation and Administrative Processing of Violations -- Responsibility for Detecting and Investigating Violations**

The primary responsibility for detecting and investigating suspected violations of statutes rests with the federal agencies which are charged by statute with administering those acts. After investigating reports of suspected violations, the respective agencies generally evaluate them internally under their own procedures to determine which matters merit referral to the Department of Justice for prosecution. Generally, whether it goes

directly to the United States Attorney or to the Environment and Natural Resources Division, a referral will be accompanied by a litigation report describing the alleged violation and the evidence available to the agency to support a prosecution.

While primary responsibility for investigating violations of an environmental enforcement statute may reside with the agency administering the act, this does not mean that other agencies, including United States Attorneys' offices, should not have a role in this phase of enforcement. Agencies such as the Fish and Wildlife Service of the Interior Department and the National Marine Fisheries Service of the Commerce Department may have personnel in the field who can be important sources of information on suspected illegal activities. Also, some United States Attorneys' offices have employed legal technicians, whose duties include assisting the Army Corps of Engineers, Environmental Protection Agency, and Coast Guard in investigating activities proscribed by environmental statutes and preparing cases for litigation.

Because of his/her function as representative of the various federal agencies in legal matters, the United States Attorney is in a position to coordinate the investigative efforts of those agencies the violations of environmental statutes. Such coordination can result in more thorough and efficient case development with fewer resources devoted to duplicative efforts. The United States Attorneys, therefore, are encouraged to establish contact with the investigative agencies which operate within their districts, to render to them useful advice regarding sound case development, and to take a lead in creating a cooperative federal effort. The Environmental Enforcement Section is prepared to assist the United States Attorneys in establishing contact with personnel of the federal agencies who operate within the various districts.

### **5-12.522 Transmittal of Reports of Unauthorized Activities**

Notwithstanding the source, all reports of violations of environmental enforcement statutes should be referred to the enforcement agencies charged with administering the acts. There are numerous reasons for this policy. In addition to the fact that prompt referral may avert wasteful duplication of federal effort, under certain of the statutes identified in USAM 5-12.100 administrative consideration may be a prerequisite to civil enforcement. *See, e.g.,* 42 U.S.C. § 7413(a)(1). In some instances, such matters may be resolved administratively without resort to litigation.

### **5-12.523 Coordination With State Programs**

Most states have environmental enforcement programs which overlap, in whole or in part, with federal programs. United States Attorneys should familiarize themselves with state environmental enforcement laws and state enforcement officials. Frequently a particular, unauthorized activity constitutes a violation of both federal and state law. United States Attorneys should remain advised of pending state environmental enforcement prosecutions. If it appears that all federal interests in the case will be vindicated in the state court proceeding, action in federal court may be an unnecessary duplication of effort. On the other hand, if federal interests will not be protected completely in state court, federal proceedings may be warranted. A key policy question in determining the source of federal environmental enforcement proceedings is often whether the unauthorized activity would have been permitted if the violator had sought permission in advance. The regulation of federal enforcement agencies, such as that of the Army Corps of Engineers, frequently requires that a permit-applicant obtain all necessary state permits, licenses, easements, etc., before a federal permit will be issued. In some cases, the only substantive objections to an authorized activity may be those which are raised by state authorities. Federal legal proceedings therefore may be directed, in substance, toward vindicating a state interest. In certain of these cases, it might be more appropriate to defer to state prosecution. But even where legal action in federal court appears warranted, the United States Attorney will have to maintain close ties with state authorities during all stages of the litigation. Some of the statutes identified in USAM 5-12.100 *e.g.,* 33 U.S.C. § 1319(b) and 42 U.S.C. § 7413(b), specifically require that notice of any federal civil action be given immediately to

appropriate state officials. At least one statute, 33 U.S.C. § 1319(e), requires that a state be made a party to any enforcement action against one of its municipalities.

### **5-12.524 Administrative Disposition of Violations**

By statute or by regulation, most environmental enforcement agencies have administrative procedures which can result in the disposition of environmental enforcement matters. Generally, United States Attorneys should defer legal action until those administrative proceedings have been completed. Court proceedings should be regarded as an adjunct to, and not substitute for the administrative process.

### **5-12.530 Litigation Procedures; Draft Complaints**

Referral packages from the environmental agencies frequently include draft complaints. In direct referral cases the United States Attorney is not bound by the form of such a draft complaint, see USAM 5-1.310 but a well drafted complaint can be helpful in expediting the initiation of an action. In order to avoid the necessity of redrafting complaints in such cases, United States Attorneys should cooperate closely with local agency counsel and advise them as to local practice and the customary local forms of complaints. In cases requiring the approval of the Assistant Attorney General, a draft complaint furnished by the client agency also may be used, or a new draft may be prepared by the Environmental Enforcement Section. Because formats vary from district to district, Environmental Enforcement Section attorneys often will seek guidance from the United States Attorney prior to drafting a complaint. Whether an agency draft is used or a new draft is generated by the Environmental Enforcement Section, once a complaint has been approved and signed by the Assistant Attorney General, it may not be altered prior to filing without the express approval of the Chief of the Environmental Enforcement Section.

### **5-12.531 Lis Pendens and the Recording of Judgments**

In civil environmental enforcement actions for prohibitory or mandatory injunctive relief, complications may arise if the ownership of the property in question changes hands during the pendency of the action. Where there is a threat of transfer of ownership, the United States Attorney should consider filing a notice of the pendency of the action, of lis pendens. The steps necessary for the filing of such a notice are determined by the law of the particular state. See 28 U.S.C. § 1964.

The final judgment in a civil environmental enforcement prosecution may, in effect, place a permanent burden on the property which was subject to the unauthorized activities. In order to protect the future interests of the United States, the judgment should be recorded in accordance with the requirements of local law and the provisions of 28 U.S.C. § 1962 *et seq.*

### **5-12.532 Pleadings**

The Environmental Enforcement Section maintains files of pleadings which have been employed successfully in past cases. Upon request to the staff attorney, United States Attorneys may obtain pertinent, sample papers or other assistance in preparing for a particular case.

### **5-12.533 Trial Assistance**

In cases in which United States Attorneys have primary litigating responsibilities, they are encouraged to request assistance in trial preparation from the Environmental Enforcement Section staff attorney assigned to a case. Section staff attorneys often are in a position to obtain legislative histories, archive materials, and technical



information which is not readily available in United States Attorneys' offices. Memoranda, trial briefs, information on unreported cases, and other material relevant to environmental cases also can be obtained through the staff attorneys. Additionally, the section keeps a file on expert witnesses used in various cases and is able to procure the services of expert witnesses through the headquarters of a number of different agencies in Washington, D.C.

## **5-12.600 Settlement and Dismissal of Cases**

The United States Attorneys are authorized to compromise any case referred to them by the Coast Guard for the collection of a civil penalty imposed pursuant to 33 U.S.C. § 1321. (Checks submitted for the payment of civil penalties should be forwarded to the referring agency for disposition.) The United States Attorneys are *not* authorized to settle or dismiss any case arising under any of the statutes identified in USAM 5-12.100.

### **5-12.611 Transmittal of Settlement Offers**

Any offer to settle or dismiss an action which the United States Attorney is not authorized to compromise shall be transmitted to the Environmental Enforcement Section attorney assigned to the case for consideration and disposition at the appropriate level. Such offers should be accompanied by the written comments and recommendation of the referring United States Attorney and of the referring agency. In emergency situations, such as with settlement offers received during trial or settlement offers dealing exclusively with monetary damages or penalties, those offers may be communicated to the Chief or one of the Deputy Chiefs of the Environmental Enforcement Section by telephone.

### **5-12.612 Solicitations of Agency Views**

United States Attorneys should remain in continuing communication with the referring agency prior to and during settlement negotiations. This will insure that the proposals being discussed are compatible with agency policies and regulations and facilitate agency approval.

Additionally, agencies other than the referring agency may have statutory review responsibilities in connection with work in navigable waters. For example, the Fish and Wildlife Service has the responsibility to review, comment on, and make recommendations as to such work under the Fish and Wildlife Coordination Act of 1958, 16 U.S.C. §§ 661 to 666. In the interests of inter-agency cooperation, the views of these agencies should at least be considered before an offer in compromise is accepted or transmitted to the Environmental Enforcement Section.

### **5-12.613 Settlement Policy in Suits Brought on Behalf of the Administrator of the Environmental Protection Agency**

Frequently, cases brought on behalf of the Administrator of the Environmental Protection Agency result in agreed judgments or consent decrees. Copies of consent decrees in previously settled cases are available from the Environmental Enforcement Section.

To assist United States Attorneys' offices in understanding the types of settlements and language in decrees which are acceptable, the following general guidance is provided:

A. Defendants should be informed that any settlement must be approved by the Assistant Attorney General of the Environment and Natural Resources Division and by the Assistant Administrator for the Office of Enforcement and Compliance Assurance of the Environmental Protection Agency or his/her delegate, and are

subject to review by them. This is a requirement of the Memorandum of Understanding with the Environmental Protection Agency.

B. Defendants should be advised that only the Department of Justice and the attorneys specifically designated may bind the United States to any agreement.

C. The pendency of settlement negotiations should not cause a cessation of litigating activities. Defendants in enforcement cases often are more amenable to settlements favorable to the United States when discovery and trial preparations proceed in parallel with settlement negotiations;

D. In no civil settlement agreement will the Environment and Natural Resources Division compromise the ability of the United States to undertake criminal prosecutions in appropriate circumstances;

E. All correspondence and other communication pertaining to the case from a defendant must come through the United States Attorney, the Environmental Enforcement Section, or client agency counsel who are assigned to assist in the litigation of the case.

F. Defendants should be advised that the United States is bound only by the provision actually set forth in any consent decree, and that no alleged agreement, written or oral, with any client agency representative or with anyone else, which does not appear on the face of a decree, in any way alters the actual terms of that decree.

## **5-12.620 Consent Decrees; Public Notice Policy**

A. Consent judgments in actions in which the complaint seeks to enjoin the discharge or emission of pollutants, after being approved by the Assistant Attorney General, are to be lodged with the court and made available for public inspection for a period of 30 days prior to their entry. This is required by Departmental Order No. 529-73, 38 Fed.Reg. 19029, dated July 17, 1973, 28 C.F.R. § 50.7.

B. Criminal actions, suits brought solely for the imposition of civil penalties, and actions pursuant to 33 U.S.C. § 403 for injunctive relief are not covered by this policy.

C. The purpose of the provision is to allow the public to comment and to allow the Executive Branch to receive the benefit of such input, and to allow it to withdraw or modify its consent to the decree based upon such information.

D. Whenever a proposed consent decree is lodged with the court pursuant to 28 C.F.R. § 50.7, the United States Attorney shall notify the Environmental Enforcement Section of that fact immediately, in order that the section may have notice of the proposed settlement published in the Federal Register.

E. In some instances district judges have proceeded to enter consent decrees prior to the expiration of the public notice and comment period. If this should occur, the United States Attorney must notify the Environmental Enforcement Section of that fact immediately.

F. When the public comment period has expired, the Environmental Enforcement Section will notify the United States Attorney as to whether any comments have been received by the Division and will forward such comments for filing with the court. If the Environmental Enforcement Section or the respective client agency intends to respond to any material public comments, the Environmental Enforcement Section will notify the United States Attorney of that fact.

G. After the court has approved the consent decree, the United States Attorney should provide copies of the file-stamped and court-signed decree to the Environmental Enforcement Section of the Environment and Natural Resources Division and to the appropriate regional EPA office. The mailing list for these offices is as follows:

Copies of all court-approved consent decrees on behalf of the Environmental Protection Agency should be addressed as follows:

Case Management Unit  
Environmental Enforcement Section

Environment and Natural Resources Division  
Department of Justice  
P.O. Box 7611  
Washington, D.C. 20044-7611

**UNITED STATES ATTORNEY OFFICES  
LOCATED IN THE FOLLOWING STATES**

Maine, New Hampshire, Regional Counsel  
Vermont, Mass., R.I., Conn. EPA-Region I

**SHOULD SEND DECREES TO THE  
FOLLOWING EPA REGIONAL OFFICES**

John Fitzgerald Kennedy  
Federal Bldg.  
Room 2203  
Boston, MA 02203

N.Y., N.J., P.R., Virgin Regional Counsel  
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